

**Minutes
Hampden Town Council
Services Committee
November 14, 2011 @ 5:30pm**

The meeting of the Hampden Town Council Services Committee was called to order at 5:32p.m. on Monday, November 14, 2011, at the Hampden Municipal Building by Chairperson Jean Lawlis.

Gretchen Heldmann, GIS/IT Specialist
Kurt Mathies, Recreation Director
Councilor Shelby Wright
Councilor Jean Lawlis, Chair
Councilor Kristen Hornbrook
Councilor Tom Brann

Councilor William Shakespeare
Mayor Janet Hughes
Councilor Andre Cushing (arr. 6:20pm)
Melanie Spencer

1. Approval of Minutes

Minutes approved with no objections.

2. Old Business

A. MSAD22 Trails Grant

As a result of the October 5, 2011 meeting, it was determined that to apply for the grant, all the school really needs is a Trail Use Permit (boiler plate language approved by the Bureau of Parks and Lands attached) and a letter stating that the plan is in compliance with local plans and ordinances (attached). The letter cannot be provided with the wording that the trail project is already in compliance, due to a number of outstanding issues and pieces of missing information such as wetland locations. Therefore, the letter is more of a statement of intent that the town is working with the school and will continue to do so to ensure that the project stays in compliance with local plans and ordinances. This means that the MOU/Joint Use Agreement (JUA) does not have to be in place in order to apply for the grant – that was something the town wanted to see before agreeing to anything. The Trail Use Permit language was modified slightly (see attached) to add the wording “(as described above).” to the end of #2. There was a question about dogs, and that and other activities would be covered by the Outdoor Facilities Ordinance.

Councilor Brann objected to doing anything without the JUA in place, especially now that MSAD22 wants to no longer do mitigation off Rt. 202 and do it here instead. He is uncomfortable with the wording of the Trail Use Permit and prefers the JUA. Melanie

recounted the minutes from the meeting the school had with WBRC on 11/09/11, which described the thought process behind changing the new high school wetland mitigation from the original location of town land off Rt. 202 to these two parcels and this trail project (attached). Councilor Lawlis is also not in favor of changing the mitigation location but is okay with approving the two documents (Trail Use Permit and Letter). Councilor Shakespeare asked if the trail location parcels were more valuable as a conservation easement (requirement of mitigation) than the original 45 acre site off Rt. 202? He does not know if location A or B is better because he is not very familiar with either site. Councilor Brann pointed out the history in how the town acquired the two parcels along Reeds Brook, and that was to use in the future for a gravity feed sewer for future planning of in-fill of four mile square. Staff pointed out that the parcels along Reeds Brook are essentially already conserved due to the amount of wetland and access restrictions as far as development is concerned. Staff also pointed out that not all conservation is wetlands – the value in conserving some of the town owned land off Rt. 202 was that some of it would be upland, which is better for recreation/trails than trudging through a swamp – and therein lies the point of conserving high-value lands – they are high-value because they are valuable for developing, but also valuable to set aside for wildlife habitat and/or human recreation. There was also mention of trading the two town parcels along Reeds Brook in exchange for the old Hampden Academy site – the parcels along Reeds Brook, should the mitigation happen there, are essentially worth nearly \$400,000 because that would be the Army Corps fee in lieu of mitigation – and that is about the same amount the school board has expressed they want for the old HA site.

The Committee expressed that they would like a copy of the final grant application that gets submitted.

Mayor Hughes made a motion to send the Trail Use Permit, with the amended wording at the end of #2, for the purposes of a trail grant application to the Council for approval. Councilor Wright 2nd. Friendly amendments: Trail Use Permit approval is pursuant to review by Tom Russell, Town Attorney; a copy of the grant application being submitted to BPL shall be shared with the Services Committee via a cc: to the Town Manager. Amendments accepted with no objections. Vote: 5 in favor, 2 opposed (Councilors Brann & Hornbrook).

Councilor Wright made a motion to send the letter of collaboration to the Council for approval. Mayor Hughes 2nd. Vote: Unanimous in favor.

The committee decided to hold off on sending a detailed letter outlining the history to date to the superintendent, school board, and others.

B. Subcommittee Updates

HOTDOG – Group is disbanded. Removed from future agendas.

FoDDix – Laying low until next year.

C. Western Ave. Rec. Area playground equipment

The playground at the Western Avenue Recreation Area is for older kids, and there have been many requests and there is a need for a 2-5 year old child component. Kurt has received three different designs and prices from the same vendor who installed the first playground piece. The component will cost more than the \$10K limit for the bid procedure, and Kurt will be requesting to waive the bid process for a couple reasons: to match the other playground equipment, and also because the warranty from this vendor is the best. This vendor has a 100 year warranty and was the second least expensive in the first round of bidding for the original piece. The other companies have a "lifetime warranty" which in fine print means a lifespan of just seven years. Kurt suggests funding this out of the Recreation Reserve, which has not been touched since the first playground was built. This reserve is funded by leftovers from the Enterprise Account, which is fees paid by people registering for various Rec. Dept. programs. Kurt will send out the playground design and price he is requesting, via email to the committee members for their consideration for next meeting.

On a related note, Councilor Brann noted that something needs to be done about the bathroom facilities, as he has pulled two little kids out of the portapotty because they fell in. The portapottys are not designed for little kids, so they tend to crawl up onto the bench to try and use it, slip, and can fall in. He also commented that a water source (drinking fountain) was needed. Some sort of fully enclosed toilet seat could be built and/or a step to address the issue in the short term. No objections to putting further research into ideas for remedying the situation.

D. Outdoor Facilities Ordinance

The committee finished the sections of the ordinance they had not yet reviewed, and only made one change to section 6.1 (see attached). The committee also reviewed the Rules and Regs document (attached) and found no issues. They had a short general discussion about the outstanding issues noted at the end of the Rules and Regs document. Councilor Lawlis noted that the owners of the right-of-way at the back of the park had changed and maybe someone should contact them to discuss the access. There was a question about bicycles technically considered a motor vehicle under state law and having to follow the same traffic laws – but out definition of motor vehicle would not include bicycles. Need legal check.

E. Ichabod Lane Maintenance Agreement for footpath on DOT property – Kurt

Kurt and Gretchen walked the footpath and reported that there were some very small trees/brush growing into the pathway. Kurt and a couple of his employees plan to trim back the brush this Saturday. No objections. Kurt now has this footpath on his list of maintenance items now that he is aware of the agreement, so he will check the path again in the spring and each year thereafter.

3. New Business

A. Letter to MSAD22 Superintendent's Office, School Board re: Trails Grant Project Status

Discussed under Old Business item A.

4. Public Comment

A citizen requested that the town check the right-of-way for Ichabod Ln, as there seems to be brush growing into it at the corner turns in the road and it is obstructing the sight path. Staff will relay the message to the Public Works Director.

5. Committee Member Comments

There are five lights out on Mayo Road, please pass to Town Manager.

The next meeting is December 12, 2011 at 6:00pm

The meeting was adjourned at 7:13pm.

Respectfully submitted,

Gretchen Heldmann
GIS/IT Specialist

TRAIL USE PERMIT
(To accompany grant application for a Recreational Trail Grant)

This permit, is granted on this 14 day of November, 2011, by the Town of Hampden (recorded owner/permittor) grants this permit over and upon the following described premises situated in the County of Penobscot, Town of Hampden in the State of Maine to the MSAD #22 (permittee) for the period of time from this day to 10 years from date of this document.

The following uses shall be allowed on the trail: walking, running, x-country skiing, snowmobiling, biking, snowshoeing.

1. This permit shall terminate upon sale of the land, or upon notification in writing to the Permittee(s) thirty days (30) prior to termination by the Permittor(s).
2. The said trail shall be open to the general public without charge for user purposes only (as described above).
3. The Permittor(s) or their authorized representatives shall at all times have the right to enter upon said trail for any purpose necessary to carry out their power and duties.
4. The permit is for a 12-foot wide, approximately 2-mile long trail over the lands to be used as depicted on the map enclosed with this application.
5. It is understood that the Permittor(s) assumes NO LIABILITY for injuries and damages that may be suffered on said trail in accordance with Title 14, 159-A.

Date

Landowner Signature

November 14, 2011

Susan Lessard, Town Manager
Town of Hampden

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-3034
Fax: (207) 862-5067
email: info@hampdenmaine.gov

November 14, 2011

Grants and Community Recreation
Bureau of Parks and Lands
22 State House Station
Augusta, ME 04333-0022

Attention: Recreational Trail Grant Review Committee,

The Town of Hampden is working in collaboration with the MSAD #22 and the Hampden Education Athletic Trust, to ensure that the Hampden Recreational Trail Project as proposed in this application will be consistent with local plans and ordinances.

Sincerely,

Susan Lessard, Town Manager

ATTENDEES	Initials	Company / Affiliation	Telephone / e-mail
Robin Clukey	RC	Maine DEP	446-1733 / robin.clukey@maine.gov
Shawn Mahaney	SM	US Army Corps of Engineers	623-8367 / Shawn.B.Mahaney@USACE.ARMY.MIL
Dave Moyse	DM	Moyse Environmental	945-6179 / dave@moyseenvironmental.com
John Kenney	JSK	WBRC Architects / Engineers	947-4511 / john.kenney@wbrcae.com

DISTRIBUTION	Initials	Company / Affiliation	Telephone / e-mail
Attendees			
Emil Genest	EG	MSAD 22	862-3255
Ray Bolduc	ARB	WBRC Architects / Engineers	947-4511

File: 09

Meeting Agenda: Wetland Mitigation

#	Item	Action
1	Wetland mitigation discussion for the Hampden Academy project	
1.1	JK provided a summary of the originally proposed wetland mitigation plan for the Hampden Academy project and presented an overview of an alternative wetland mitigation plan.	
1.2	The originally proposed wetland mitigation plan consisted of preserving a 45-acre tract of land adjacent to Ammo Industrial Park on Route 202 and constructing a trail system to provide recreational and educational opportunities. The 45-acre tract is part of a larger 235-acre parcel owned by the Town of Hampden, a portion of which is planned to be "Town Forest".	
1.3	Because the proposed "Town Forest" concept has not been advanced by the Town, which will limit access to the originally proposed mitigation site, and because the Town has expressed willingness to consider placing an easement on parcels owned along Reeds Brook, the applicant is proposing an alternative wetland mitigation plan to preserve an equivalent amount of land adjacent to Reeds Brook (map 6 lot 42A and map 6 lot 43B) and to construct a trail system to provide recreational and educational opportunities similar to the originally proposed wetland mitigation plan. DM mapped wetlands on both Reeds Brook parcels, which contain wetlands, potential vernal pools and upland habitat. DM said that wildlife is abundant on both parcels.	
1.4	After reviewing the proposed alternative wetland mitigation plan, RC and SM said that the proposed alternative plan is acceptable. The extent of proposed trails will	

	<p>need to be shown on the wetland plan as well as typical trail cross-sections. RC said that stormwater management may be required depending on the surface and width of the proposed trail system. DM said that minimal wetland filling will occur. A permit from the Army Corps of Engineers will be required for any wetland impact, which will be cumulative for this project. The site license will need to be modified. The town can hold the easement, which will need to spell out proposed uses. Motorized use along the ATS trail is acceptable as well as a groomer to maintain Nordic ski trails on the site, but will need to be specified in the easement.</p>	
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Sincerely,

John Kenney, PE LEED^{AP}
Civil Department

WBRC ARCHITECTS • ENGINEERS
44 Central Street
Bangor, ME 04401-5116
(207) 947-4511 phone (207) 947-4628 fax
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TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE

ENACTED DATE: MONTH, XX, 2011

EFFECTIVE DATE: MONTH, XX, 2011

CERTIFIED BY: _____
Name

Title Affix Seal

TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE
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ARTICLE I. PURPOSE

1.1 Purpose. The purpose of this Ordinance is to provide rules and regulations for the use of and conduct in outdoor facilities situated in Hampden. This Ordinance replaces the former Dorothea Dix Park Ordinance and Papermill Road Recreation Area Ordinance.

ARTICLE II. AUTHORITY

2.1 Authority. Pursuant to the provision Title 30-A M.R.S. Sections 3001 and 3280-3281 and the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, there is hereby established a public facilities Ordinance to be organized, administered and governed in accordance with the following provisions.

ARTICLE III. APPLICABILITY

3.1 Applicability. This Ordinance provides full power and authority over all public outdoor property within the Town.

ARTICLE IV. DEFINITIONS

4.1 Definitions. Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Alcoholic Beverage: any beverage containing any amount of alcohol as regulated under state law.

Controlled Substance: any legal or illegal drug, narcotic, hallucinogen, opiate, prescription drug, or any other such substance regulated by state or federal law.

Motorized Vehicle: any vehicle that is propelled by an engine, including but not limited to: cars, trucks, motorcycles, snowmobiles, ATVs, OHVs, dune buggies, dirtbikes, three-wheelers, go-karts, and golf carts.

Outdoor Facility: any park, sports field, forest, wooded area, field, playground, or other property owned by the Town of Hampden.

Parks: Includes the following public properties: Dorothea Dix Park, Papermill Road Recreation Area, Western Avenue Recreation Area.

Sports Fields: Includes the following public properties: Ball Field Road Ball Field, VFW Recreation Area, Western Avenue Recreation Area.

Tobacco Products: cigars, cigarettes, chewing tobacco, snuff, or any other product containing tobacco as regulated under state law.

ARTICLE V. PROHIBITIONS

5.1 Camping. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in outdoor public properties after closing hours, any movable structures or special vehicle that could be used for such purposes. Upon prior approval of a law enforcement officer of the Town of Hampden, overnight camping may be permitted in situations involving unique circumstances.

5.2 Firearms/Hunting. No person ~~other than law enforcement personnel shall carry or~~ discharge a firearm or engage in any hunting activity within parks or sports fields as defined herein. Refer also to the Town of Hampden Firearms Discharge Ordinance.

5.3 Fires. No person shall kindle, build, maintain or use a fire except in areas designated for such purposes. All fires shall be properly extinguished before the person utilizing the same leaves the outdoor facility. Any fires shall be continuously under the care and supervision of a competent person from the time it is kindled until it is extinguished. Fires may be prohibited by the Recreation Director, Town Forester, and or employees of the Public Safety Department when, in his or her judgment, the conditions are such that any fire would represent a safety hazard.

5.4 Wood. No person shall cut any wood on any public property without a prior permit from the Town Forester, who shall have the discretion to deny any application for such a permit if he or she determines that the proposed activity is inconsistent with the goals of the forest management plan for the property.

5.5 Alcoholic Beverages. No person shall ~~bring consume or be under the influence of alcoholic beverages into the outdoor facility, nor shall any person drink or use the same at any time or be under the influence of the same in the outdoor facility.~~

5.6 Tobacco Products. No person shall consume or use tobacco products within the outdoor facility.

5.7 Controlled Substances. No person shall consume or use any controlled substance legal or illegal while within the outdoor facility, unless the person has a labeled container and proof of prescription.

5.8 Trash. No person shall scatter, drop or leave any debris trash or other rubbish within the outdoor facility except in receptacles provided for that purpose.

5.9 Animals. All animals brought into the outdoor facility shall be on a leash at all times so as to not interfere with the enjoyment of the outdoor facility by other members of the public, if present. No animal shall be off a leash at any time at any sports field as defined herein, or at any part of Western Avenue Recreation Area. Owners shall pick up after their animals.

5.10 Motor Vehicle Access. Access to outdoor facilities by motor vehicles will be permitted or prohibited pursuant to the rules for that facility contained in the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Upon prior approval of a law enforcement officer of the Town of Hampden, motor vehicle access may be permitted in situations involving unique circumstances. For specific restrictions for each outdoor facility, please refer to the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Motor vehicle access to a facilities' parking area is allowed; this section is meant to address access to parts of facilities that are not meant for motor vehicles.

5.11 Other Vehicles Prohibited. No person shall operate a trail bike, all terrain vehicle, snowmobile, or any other motorized recreational vehicle within any outdoor facility except for on designated trails or areas, or for purposes of maintenance or rescue.

ARTICLE VI. OPERATION

6.1 Hours & Dates of Operation. Outdoor facilities shall be open to the public from dawn to dusk. Outdoor facilities are open 365 days a year as weather allows. For information on reservations, which facilities are plowed during the winter, and closing times for areas with artificial lighting, please see the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Snowmobiles are permitted after dark on designated trails.

ARTICLE VII. ENFORCEMENT

7.1 Law Enforcement. Any law enforcement officer of the Town of Hampden shall have the authority to revoke the permission of any individual to use an outdoor facility when the officer observes, or has probable cause to believe, that such individual has violated any provisions of this Ordinance, committed a civil infraction within the facility, or has violated any provision of the laws and Ordinances of the State of Maine or the Town of Hampden within the facility. The Recreation Department also has the authority to revoke the permissions of any individual to use an outdoor facility if they are found to have violated the provisions of this Ordinance.

7.2 Alternative Enforcement. The Recreation Director and his or her subordinate employees shall be empowered to enforce the provisions of this Ordinance. In addition, the Code Enforcement Officer and the members of Hampden Public Safety shall also have the authority to enforce the provisions of this Ordinance.

**ARTICLE VIII.
PENALTIES**

8.1 Penalties. Any person, firm or corporation violating any provisions of this Ordinance shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Fifty Dollars (\$150.00) for each violation. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any fines recovered shall inure to the benefit of the Town of Hampden.

**ARTICLE IX.
SEVERABILITY**

9.1 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

DRAFT

Outdoor Facilities Rules and Regulations

✓ **Motor Vehicle Access.** Shall be permitted as weather allows under the direction of the Recreation Director, for all facilities that have areas for motor vehicle access. No person shall operate a motor vehicle in or on an Outdoor Facility or in any area except established roads, driveways, or parking areas, or such other areas as may, on occasion, be specifically designated as temporary parking areas by the Recreation Director.

✓ **Dorothea Dix Park.** Access to the park by motor vehicles (as defined in the Outdoor Facilities Ordinance) will generally be permitted between April 1 and November 1, although the Recreation Director shall have the authority to provide for different dates of motor vehicle access depending on weather conditions. Motor vehicle access applies only to those parts of the park that are designated driveways and parking areas. No person shall operate a motor vehicle in the park, or leave a motor vehicle standing or parked therein, during times when it is closed to the public. The park is not plowed during the winter. No section or parts of the park may be reserved.

✓ **Papermill Road Recreation Area.** Access to the park by motor vehicles (as defined in the Outdoor Facilities Ordinance) will generally be permitted between April 1 and November 1, although the Recreation Director shall have the authority to provide for different dates of motor vehicle access depending on weather conditions. Motor vehicle access applies only to those parts of the park that are designated driveways and parking areas. No person shall operate a motor vehicle in the park, or leave a motor vehicle standing or parked therein, during times when it is closed to the public.

✓ **Western Avenue Recreation Area.** Motor vehicle access is permitted within the paved parking lot area only. The gazebo is considered closed at dusk. Lighting turns off at 10pm, at which time the facility is considered closed to the public. The multi-purpose field can be reserved, during which times the area is not open to the public. All other areas cannot be reserved, and are always open to the public. The parking lot is plowed during the winter.

✓ **VFW Recreation Area.** Access to the park by motor vehicles (as defined in the Outdoor Facilities Ordinance) will generally be permitted as weather allows, although the Recreation Director shall have the authority to provide for restriction of motor vehicle access depending on weather conditions. Motor vehicle access is permitted within the gravel parking areas only. Artificial lighting is available on a timed switch at all hours for the tennis courts only. All or parts of this facility can be reserved, during which times the area is not open to the public.

✓ **Ball Field Road Ball Field.** Access to the park by motor vehicles (as defined in the Outdoor Facilities Ordinance) will generally be permitted as weather allows, although the Recreation Director shall have the authority to provide for restriction of motor vehicle access depending on weather conditions. Motor vehicle access is permitted only within the dirt/gravel area across the road from the ball field. Use of artificial lighting is available upon request. All or parts of this facility can be reserved, during which times the area is not open to the public.

Marina. Refer to Harbor Ordinance.

Reservations. Please see the details for each facility in the previous sections regarding what can and cannot be reserved. Fees for reservations are in the Town of Hampden Fees Ordinance.

Other Items to Consider by the Services Committee:

- Rental of certain facilities such as the gazebo, sports fields, etc. -> Would this need to be included in the Fees Ordinance? ANSWER: Covered this in the above regs.
- Marina? Lighting, portopotty, times, motor vehicle access exception, etc. -> Is there another ordinance that covers this? ANSWER: Other than refer to Harbor Ordinance, which only mentions not storing boats or trailers in the parking lot overnight, we need more guidance, especially considering current efforts in that area.
- Include cemeteries as open spaces? Nothing in the OFO should conflict w/Cemetery Ordinance. ANSWER: Only reference to hours of operation in Cemetery Ordinance is wording about no access after dark. Should they be included? We need guidance/answer from Services Cmte.
- Library wi-fi after-hours access w/laptop in car in parking lot? ANSWER: This ordinance is for outdoor facilities, and we don't consider the Library an Outdoor Facility.
- How to address ATVs in gravel pit? ANSWER: ATVs are already prohibited by law from using any landowner's property w/out their consent. This is more a law enforcement nuisance issue, unless the town wants to permit ATVs (liability issues...).
- Any other properties that should have specific regs? If so, what? ANSWER: Staff needs guidance – should this include more on the “pocket parks”, LL Bean parcel, snow dump, more on cemeteries, etc? If yes to any of the above, what should be included? A general statement about “no dumping” on town lands? Or...?
- Mountain biking? ANSWER: Staff need more guidance as to how specific the town wants to get in regulating all the wide variety of outdoor recreational activities (mountain biking, snowshoeing, equestrian, x-country skiing, snowmobiling, ATVing, hiking, birdwatching, dirtbikes, dog walking, other off-road vehicles, mudding, Jeeping, etc....)